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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/869,260	06/27/2001	Shigenori Terada	2001-0900A	2441

513 7590 04/29/2003

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WASHINGTON, DC 20006-1021

EXAMINER

BRUENJES, CHRISTOPHER P

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/29/2003

8

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/869,260

Applicant(s)

TERADA ET AL.

Examiner

Christopher P Bruenjes

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) ✓
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

WITHDRAWN REJECTIONS

1. The objection to claim 1 of record in Paper #4, Page 2 Paragraph 1 has been withdrawn due to Applicant's amendment in Paper #6.

REJECTIONS REPEATED

2. The 35 U.S.C. 102 rejections of claims 1 and 3 as anticipated by El-Afandi et al is repeated for the reasons previously of record in Paper #4, Pages 2-3 Paragraph 2.

3. The 35 U.S.C. 103 rejections of claims 2 and 4 over El-Afandi et al in view of Mennella is repeated for the reasons previously of record in Paper #4, Pages 4-5 Paragraph 3.

ANSWERS TO APPLICANT'S ARGUMENTS

4. Applicant's argument filed in Paper #6 regarding the claim objection has been considered but is moot since the objection has been withdrawn.

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5. Applicant's arguments filed in Paper #6 regarding the 35 U.S.C. 102 rejections of claims 1 and 3 as anticipated by El-Afandi have been considered but they are not persuasive.

In response to Applicant's argument that El-Afandi does not teach a laminate have both a film of which the major component is a polylactic acid-family polymer and a film of which the major component is an aliphatic polyester having the structure of the formula (1), El-Afandi teaches a core layer, which is an outer layer in the two-layer structure embodiment (col.4, 1.40-44), in which the major component is a polylactic acid-family polymer or lactic acid residue containing polymer (col.19, 1.5-10). El-Afandi also teaches a blocking reducing layer of which the major component, or up to 70%, comprises an aliphatic polyester which is a copolymer of which the major components are 1,4-butanediol, succinic acid, and adipic acid (col.16, 1.15-20). Claim 1 of the present invention is determined the define a film of which the major component is aliphatic polyester with the structure of the formula (1), the claim does not define a film having only aliphatic polyester with the structure of the formula (1). Also, the major component is determined to be the component with the highest composition in the mixture, in which a film comprising 70% by weight of aliphatic polyester is determined to be a film of which the major component is

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aliphatic polyester. El-Afandi teaches that the multi-layer structure is preferably manufactured by coextrusion, but any processing technique used to prepare films, sheets, laminates and the like can be used in the present invention (col.19, 1.64-67), which would include the process newly added to claim 1 of the present invention. Additionally, process limitations within an article claim receives little patentable weight because the same article can be made by different materials, including this bag as taught by El-Afandi.

6. Applicant's arguments filed in Paper #6 regarding the 35 U.S.C. 103 rejections of claims 2 and 4 over El-Afandi in view of Mennella have been fully considered but they are not persuasive.

In response to applicant's arguments that Mennella does not teach a specific type of biodegradable resin for the zipper, Mennella teaches that the composition of the zipper is the same as that of the bag it is attached to (col.1, 1.35-40), so that the entire bag is biodegradable. Additionally, it is notoriously well known in the art that using the same composition for the bag and the zipper would save money on raw material cost because only one composition is used for the entire bag.

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Conclusion

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 703-305-3440. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the

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organization where this application or proceeding is assigned
are 703-872-9310 for regular communications and 703-872-9311 for
After Final communications.

Any inquiry of a general nature or relating to the status
of this application or proceeding should be directed to the
receptionist whose telephone number is 703-308-0661.

Christopher P Bruenjes
Examiner
Art Unit 1772

CPB

April 21, 2003

Chi Bruenjes

Harold Pyon
HAROLD PYON
SUPERVISORY PATENT EXAMINER
1772

4/28/03